

## **REMARKS**

In order to facilitate prosecution of this case, Applicant makes these amendments and the following remarks in order to respond to the rejections raised in the June 6, 2003 final Office Action. Upon entry of the present amendments, claim 37 will be pending in the application. Claims 1, 10, and 24 have been cancelled without prejudice or disclaimer. No new matter has been added by the present amendments.

### **I. Rejections under 35 U.S.C. § 102**

Claims 1 and 24 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,361,771 (“Tao”). These claims have been cancelled herein, without prejudice or disclaimer. Thus, the rejection of these claims is moot and should be withdrawn.

### **II. Rejection under 35 U.S.C. 103**

The Examiner has indicated that claim 1 is directed to an invention that is not patentably distinct from claim 7 of Tao, which is commonly assigned. According to the Examiner, “[c]ommonly assigned 6,361,771 . . . would form the basis for a rejection of the noted claims under 35 U.S.C. § 103(a) if the commonly assigned case qualifies as prior art under 35 U.S.C. § 102(f) or (g) and the conflicting inventions were not commonly owned at the time the invention in this application was made.” (Office Action at pages 3-4). As noted above, claim 1 has been cancelled herein, without prejudice or disclaimer. Thus, this rejection is moot and should be withdrawn.

### **III. Rejections under 35 U.S.C. § 112, first paragraph**

The Examiner has indicated that claims 1, 10, and 24 are rejected under 35 U.S.C. § 112, first paragraph for failing to comply with the enablement rejection. According to the Examiner, the hRPE-7, hRPE-116, and ARPE-19 cell lines recited in these claims must be deposited. Applicants have herewith cancelled claims 1, 10, and 24, without prejudice or disclaimer. Thus, this rejection of these claims is moot and should be withdrawn.

### **IV. Allowed Claim**

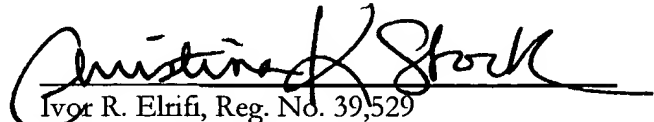
Applicants note with appreciation that claim 37 has been allowed by the Examiner.

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U.S.S.N. 09/559,707

## CONCLUSION

Applicants submit that the application is in condition for allowance and such action is respectfully requested. Should any questions or issues arise concerning the application, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,



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